IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Arbitration Petition No. 223 of 2007

Karvy Stock Broking Ltd. ..Petitioners

vs.

1. Mr.Nipha Rodriques & Anr. ..Respondents.

Ms.J.M.Sidhwa i/b M/s Joseph and Associates for petitioners
Mr.Vikas J.Thakkar for respondents.

CORAM: S.C.DHARMADHIKARI J
7th September,2007

P.C.

1. The Award dated 15th January, 2007 is impugned in this petition under section 34 of the Arbitration and Conciliation Act, 1996 by the petitioners/trading member/applicant before the Arbitral Tribunal. A Retired Judge of this Court Smt.Justice K.K.Baam in the subject Award has observed that the applicants have not followed the NSE Guidelines (National Stock Exchange) nor complied with the regulations as they allowed the respondents to trade from May, 2006 till August, 2006 without asking for the margin short fall or calculations in the respondents' transactions. They did so only in August, 2006. In that view of the matter, the respondents' contention that the transactions were unauthorised and has been accepted. In fact, the conclusion has been reached

on the basis of the documents produced by the petitioners. It was their plea that they had in deed allowed such a course to be adopted but that was because even on prior occasions, the respondents' constituents/clients assured them that repayment would be made. The conclusions that are reached by the Arbitral Tribunal from paras 39 to 42 of the impugned award would go to show that the Arbitral Tribunal has fully applied its mind to the rival contentions and by considering the material placed before it, reached the conclusion that the applicants' claim cannot be accepted.

2. Ms.Sidhwa in a usual persuasive manner urged that the learned Arbitrator has erred in reaching this conclusion. The conclusions could not have been reached because the original applicants have allowed the trading to go on. She submits that despite enough material having been produced with regard to the assurance and admitted liability the claims could not have been rejected.

3. I am unable to accept this contention because this is not a court of appeal which would be in a position to reappriase and reappreciate the material produced before the Arbitral Tribunal. Once, the view taken by the Arbitral Tribunal is based on material produced and is a possible view

of the matter, then, it is not permissible to entertain this petition. Besides this, as has been observed by me above. the approach of the Arbitral Tribunal in refusing to assist the petitioners who have not adhered to the guidelines and regulations is not vitiated in such a manner so as to permit interference within the limited jurisdiction under sec.34 of the Act. The petition is dismissed.

(S.C.DHARMADHIKARI J.)